REMARKS

Claims 1 - 23 are pending in the present application. No claims are presently being amended.

On 5 APR 2002, and on 17 NOV 2004, Applicant submitted Information Disclosure Statements that included PTO-1449s having references listed thereon. Applicant has not yet received a copy of each of the PTO-1449s showing an acknowledgement that the Office has considered the references. Applicant respectfully requests that with the next communication, the Office provide a copy of the PTO-1449s.

On page 2 of the Office Action, the drawings are objected to for including a reference number, namely reference number 575 of FIG. 5B, that was not mentioned in the description. Applicant amended page 18 of the specification to describe reference number 575. Withdrawal of the objection is respectfully solicited.

On page 3 of the Office Action, claims 1 – 9 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicant is traversing this rejection.

Claim 1 provides a method for enhancing source code for execution on a computer platform. The method includes, *inter alia*, supplementing the source code with an instruction. Applicant submits that the act of supplementing source code with an instruction is a practical application that produces a concrete, useful and tangible result, i.e., the supplemented source code. Therefore claim 1 is directed to statutory subject matter under 35 U.S.C. 101.

Claims 2 – 8 depend from claim 1. By virtue of this dependence, claims 2 – 8 are also directed to statutory subject matter.

Claim 9 is an independent method claim, and provides a method that includes supplementing source code. Therefore, claim 9, for reasoning similar to that provided in support of claim 1, is directed to statutory subject matter.

Applicant respectfully requests reconsideration and withdrawal of the section 101 rejection of claims 1 – 9.

On page 3 of the Office Action, claims 1 – 3, 9 – 12, 16 – 19 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,826,748 (hereinafter "the Hohensee et al. patent"). Applicant is traversing this rejection.

As mentioned above, claim 1 provides a method for enhancing source code for execution on a computer platform. More specifically, the computer platform has a capability to employ a memory file. The method includes recognizing an occurrence of a first instruction in the source code that does not utilize the capability, and supplementing the source code with a second instruction that utilizes the capability.

The specification describes a memory file and explains an advantage of the memory file over a file on a permanent storage media. For example, a paragraph beginning at page 4, line 27, states:

> A memory file is a file that resides in memory only, as opposed to a permanent file, which resides on a disk or some other permanent storage media (hard drive, compact disk (CD), diskette, etc.). Because memory access is several orders of magnitude faster than I/O to permanent storage media, there is a potential performance gain to be achieved if a memory file is used where a permanent file is ordinarily used.

Thus, a memory file is a file in memory, yet is accessible with instructions similar to those for accessing a file on a permanent storage media. The term "memory file" is a term of art having a meaning distinct from that of terms such as "memory", "general register file" and "memory-mapped control register."

The Hohensee et al. patent is directed toward a technique of executing instructions for a computer of a first computer architecture on a computer of a second, different architecture (col. 1, lines 11 – 13). The Hohensee et al. patent provides an example of the technique in the form of a system employed to execute instructions for an X86 processor on a Tapestry processor (col. 13, lines 8 – 12).

The Office Action suggests that the Hohensee et al. patent, at col. 14, lines 6 –8, discloses the recognizing step of claim 1. The passage at col. 14, lines 6 – 8 states:

> The system does not translate instructions stored in non-DRAM memory, for instance ROM BIOS for I/O devices, memory-mapped control registers, etc.

Applicant respectfully submits that this cited passage merely explains that instructions stored in a particular class of memory are not translated. This passage does not disclose any action relating to recognizing an occurrence of an instruction in source code. Moreover, as Applicant explained above, the term "memory file" is a term of art having a meaning distinct from that of terms such as "memory", "general register file" and "memory-mapped control register." Neither this cited passage, nor any other passage in the Hohensee et al. patent, mentions any operation involving a memory file.

Whereas the cited passage does not disclose any action relating to **recognizing an occurrence of an instruction in source code**, and whereas neither the cited passage, nor any other passage in the Hohensee et al. patent, mentions any operation involving **a memory file**, Applicant submits that the Hohensee et al. patent does not disclose **recognizing an occurrence of a first instruction in the source** code that does not utilize a capability of a computer platform to employ **a memory file**, as recited in claim 1.

Nevertheless, the Office Action also suggests that the Hohensee et al. patent, at col. 14, lines 9 – 12, discloses the supplementing step of claim 1. The passage at col. 14, lines 9 – 12 states:

> A portion of the X86 program may be translated into native Tapestry code multiple times during a single execution of the program. Typically, the translation is performed on one processor of the Tapestry multiprocessor while the execution is in progress on another.

This passage does not disclose either of (a) **supplementing source code**, or (b) an instruction that utilizes **a capability of a computer platform to employ a memory file**. Consequently, Applicant submits that the Hohensee et al. patent does not disclose **supplementing the source code** with a second instruction that utilizes **the capability**, as recited in claim 1.

For the several reasons provided above, Applicant submits that the Hohensee et al. patent does not anticipate claim 1.

Claims 2, 3 and 9 depend from claim 1. At least because of this dependence, claims 2, 3 and 9 are also novel over the Hohensee et al. patent. Nevertheless, below, Applicant explains that claim 2 includes a feature that further distinguishes it over the Hohensee et al. patent.

Claim 2 depends from claim 1 and further recites that the recognizing and the supplementing are performed when porting the source code from a first source file to a second source file. Porting is a term of art that describes a task of adapting *source code* for a different platform than the one on which the code was originally developed.

The Office Action suggests that the Hohensee et al. patent also discloses the features of claim 2 at col. 14, lines 9 – 12. This cited passage, which Applicant quoted above, discloses that a portion of an X86 program may be translated into native Tapestry code. However, the translation disclosed by the Hohensee et al. patent relates to the translation of *binary* code (col. 1, lines 13 – 35). In the art of computer processing, it is understood that people write source code that is subsequently compiled into binary code. The terms "source code" and "binary code" are not synonymous with one another. As such, the Hohensee et al. patent's disclosure of **translating an X86 program into native Tapestry code is not a disclosure of porting source code**. Therefore, the Hohensee et

al. patent does not disclose that the recognizing and the supplementing are performed when **porting the source code** from a first source file to a second source file, as recited in claim 2. Hence, claim 2 is novel over the Hohensee et al. patent not only because claim 2 depends from claim 1, but also on its own merits.

Claim 9 is a method claim and includes recitals similar to those of claims 1 and 2 as described above. Thus, claim 9 is also novel over the Hohensee et al. patent.

Claims 10 – 12 and 16 are system claims that include recitals corresponding to those of claims 1 – 3 and 9, respectively. Therefore, claims 10 – 12 and 16, for reasoning similar to that provided in support of claims 1 – 3 and 9, are all novel over the Hohensee et al. patent.

Claims 17 - 19 and 23 are storage media claims that include recitals corresponding to those of claims 1 – 3 and 9, respectively. Therefore, claims 17 - 19 and 23, for reasoning similar to that provided in support of claims 1 – 3 and 9, are all novel over the Hohensee et al. patent.

Applicant respectfully requests reconsideration and withdrawal of the section 102(b) rejection of claims 1 – 3, 9 – 12, 16 – 19 and 23.

On page 8 of the Office Action, claims 4 – 8, 13 – 15 and 20 –22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Hohensee et al. patent in view of U.S. Patent No. 6,691,125 to Engle et al. (hereinafter "the Engle et al. patent"). Applicant is traversing this rejection.

Claims 4 –8 depend from claim 1, claims 13 – 15 depend from claim 10, and claims 20 – 22 depend from claim 17. Applicant submits that the Engle et al. patent does not make up for the deficiencies of the Hohensee et al. patent as it applies to claims 1, 10 and 17. Therefore, claims 1, 10 and 17, as well as claims 4 – 8, 13 – 15 and 20 –22, are all patentable over the cited combination of the Hohensee et al. and Engle et al. patents.

Applicant respectfully requests reconsideration and withdrawal of the section 103(a) rejection of claims 4 – 8, 13 – 15, and 20 – 22.

In view of the foregoing, Applicant respectfully submits that all claims presented in this application patentably distinguish over the prior art. Accordingly, Applicant respectfully requests favorable consideration and that this application be passed to allowance.

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Date

Respectfully submitted,

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